



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

July 17, 1990

Ms. Elaine H. Piper
Assistant City Attorney
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79999

OR90-302

Dear Ms. Piper:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 9905.

The El Paso Police Department received an open records request for "information regarding the undercover operation a female officer was conducting . . . during which time the officer was sexually assaulted." We have considered the exceptions you claimed with regard to specific documents and have reviewed the documents at issue. You state that you have released to the requestor the document in Category A.

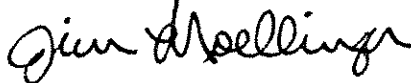
Although you cite Open Records Decision No. 71 (1975) as authority for withholding the documents in Category B, we note that Open Records Decision No. 444 (1986), a copy of which is enclosed, overruled that earlier decision. The documents in Category B do not come under the protection of sections 3(a)(1), 3(a)(2), or 3(a)(11); you must therefore release these documents.

The documents in Category C do not come under the protection of either section 3(a)(1), 3(a)(8), or 3(a)(11). In order to withhold these documents pursuant to section 3(a)(3), this office must first receive from the district attorney or assistant district attorney who is prosecuting the sexual assault charge a letter in which he requests that these documents not be released because they relate to pending criminal litigation. Absent such a request, the documents must be released.

The documents in Categories D and E may be withheld in their entirety pursuant to section 3(a)(8). See Open Records Decision No. 211 (1978).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-302.

Yours very truly,



Jim Moellinger
Assistant Attorney General
Opinion Committee

JM/RWP/le

Ref.: ID#s 9905, 8942

Enclosure: Open Records Decision No. 444

cc: Janet M. Perez
El Paso Times
P.O. Box 20
El Paso, Texas 79999